



GOVERNOR GREG ABBOTT

January 30, 2019

Justin Gordon
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 011-19

Dear Mr. Gordon:

On January 9, 2019, the Office of the Governor (the "OOG") received a modified request under the Public Information Act (the "PIA") from Mr. Brett Barrouquere.¹ A copy of the initial request and modified request are attached as Exhibit A. Pursuant to section 552.301(a), the OOG timely requested a decision from your office on whether the responsive information is excepted from disclosure under the PIA. That request is attached as Exhibit C. Our office now submits this brief in accordance with section 552.301(e).

The OOG will redact information subject to section 552.117 pursuant to section 552.024 of the Government Code, confidential personal information pursuant to section 552.1175(f), emails subject to section 552.137 pursuant to Open Records Decision No. 684 (2009), and routing, account, credit card, and other access device numbers pursuant to section 552.136(c) of the Government Code. The OOG asserts portions of the remaining responsive information are excepted from required public disclosure under section 552.101 of the PIA. The responsive information is attached as Exhibit B. Release of some of the responsive information may also implicate the interests of a third party. The OOG has notified the third party of its right to submit arguments against disclosure of the information at issue pursuant to section 552.305(b). The OOG has copied the requestor as a recipient of this brief pursuant to section 552.301(e-1).

I. Information Excepted From Required Public Disclosure Under Section 552.101 in Conjunction with Common-law Privacy: Financial Information

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹ The OOG was closed January 21, 2019, for a holiday.

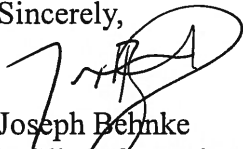
Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Your office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. See Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy).

The information marked within Exhibit B as subject to common-law privacy reveals personal financial information. Thus, the OOG asserts the marked information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

II. Conclusion

On behalf of the OOG and pursuant to section 552.301 of the Government Code, I respectfully request an open records letter ruling as to the applicability of the above raised exception. If you have any questions or need additional information, please contact me at (512) 463-1750.

Sincerely,



Joseph Behnke
Public Information Coordinator
Assistant General Counsel
Office of Governor Greg Abbott

cc: Brett Barrouquere
Southern Poverty Law Center
400 Washington Avenue
Montgomery, AL 36104
VIA EMAIL ONLY

David Cortman
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
VIA EMAIL ONLY

EXHIBIT A

From: 67108-92416395@requests.muckrock.com
Sent: Tuesday, January 8, 2019 3:09 PM
To: Public Records
Subject: 011-19 Barrouquere - Request

Office of the Governor
Texas Public Information Act Office
P.O. Box 12428
Austin, TX 78711

January 8, 2019

To Whom It May Concern:

Pursuant to the Texas Public Information Act, I hereby request the following records:

I am requesting an opportunity to inspect or obtain copies of public records between of Alliance Defending Freedom, also known as ADF, any employees of the group and the Texas Governor's Office between January 14, 2013 and the present.

Please construe this request to include all emails, notes, memos, messages and text messages (if available).

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,

Brett Barrouquere 334-956-8234

Filed via MuckRock.com

E-mail (Preferred): 67108-92416395@requests.muckrock.com

Upload documents directly: https://www.muckrock.com/accounts/agency_login/office-governor-3877/foia-request-for-adf-communications-67108/?uuid-login=89817be9-dea2-4214-9413-a5c0059ce43d&email=publicrecords%40governor.state.tx.us#agency-reply

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News
DEPT MR 67108
411A Highland Ave
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e.,

with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

From: Public Records
Sent: Tuesday, January 8, 2019 3:28 PM
To: 67108-92416395@requests.muckrock.com
Subject: 011-19 Barrouquere - Request for narrowing

Mr. Barrouquere:

This email seeks to narrow or clarify your request to avoid the production of and potential charges for responsive information that you are not interested in receiving. Additionally, clarifying or narrowing the scope of your public information request can assist the OOG in providing responsive information to you more quickly and potentially avoid the need for a decision from the Office of the Attorney General.

Your original request seeks “[all emails, notes, memos, messages and text messages] between of Alliance Defending Freedom, also known as ADF, any employees of the group and the Texas Governor's Office between January 14, 2013 and [January 8, 2019].” Please respond to the following request for clarification or narrowing:

- **Are you willing to narrow your request to exclude certain divisions that are not likely to have information related to your request?** Narrowing your request to exclude certain divisions, such as the Texas Music Office or Texas Film Commission, may reduce the chargeable labor required to obtain any responsive information. To see a list of some of the divisions of the OOG that may be excluded, you can visit: <https://gov.texas.gov/organization>.

Your narrowing or clarification of this request does not preclude you from making future requests for additional information. After we receive your response, we can begin a search of our records for the information you are seeking. If the OOG does not receive a response from you by the 61st day after the date this email is sent, your request will be considered withdrawn. See Gov't Code § 552.222(d), (g). The withdrawal of your request does not preclude you from requesting the same or other information in the future. You can reach us at publicrecords@gov.texas.gov or 512-463-1750 with any questions.

Best regards,

Joseph Behnke
Public Information Coordinator
Assistant General Counsel
Office of the Governor

From: 67108-92416395@requests.muckrock.com <67108-92416395@requests.muckrock.com>
Sent: Tuesday, January 8, 2019 3:09 PM
To: Public Records <publicrecords@gov.texas.gov>
Subject: Texas Public Information Act Request: FOIA request for ADF communications

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Texas Public Information Act Office
P.O. Box 12428
Austin, TX 78711

January 8, 2019

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Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

Sincerely,

Brett Barrouquere 334-956-8234

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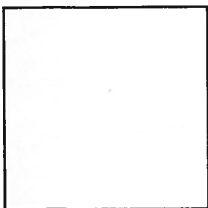
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From: Brett Barrouquere <brett.Barrouquere@splcenter.org>
Sent: Wednesday, January 9, 2019 9:55 AM
To: Public Records
Subject: 011-19 and 012-19 Response to Clarification

Hi,

I received your response about narrowing my records request, both for FRC and ADF communications. The following agencies and departments can be excluded from both requests:

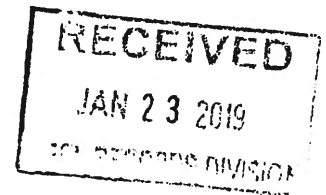
The Texas Film Commission
The Texas Music Office
Texas Tourism
The Office of Military Preparedness
Human Resources

If I find any others that may be excluded, I'll contact you.

Brett

Brett Barrouquere
Investigative Reporter
Southern Poverty Law Center
400 Washington Ave.
Montgomery, AL. 36104
334*956*8234
brett.barrouquere@splcenter.org

EXHIBIT C



GOVERNOR GREG ABBOTT

January 23, 2019

Justin Gordon
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Letter Ruling Request
OOG ID#: 011-19

Dear Mr. Gordon:

On January 9, 2019, the Office of the Governor (the "OOG") received a modified request under the Public Information Act (the "PIA") from Mr. Brett Barrouquere.¹ A copy of the initial request and modified request are attached as Exhibit A.

The OOG asserts information responsive to this request is excepted from disclosure under the Public Information Act ("PIA"). Specifically, the OOG invokes all of the exceptions provided by, and the exceptions incorporated into, sections 552.101 through 552.158 of the PIA.

Pursuant to section 552.301(a) of the PIA, this letter is submitted in order to seek a decision as to whether the exceptions apply. To assist in your review, the OOG will provide written comments and the responsive documents, or a representative sample of the responsive documents, not later than the 15th business day from the date the request was received.

In addition, some of the requested information may implicate a third party's privacy or proprietary interests. Therefore, the OOG is notifying the relevant third party of the request and its right to submit arguments against disclosure of the requested information pursuant to section 552.305(b).

Should you need additional information, please feel free to contact me at 512-463-1750 or via email at publicrecords@gov.texas.gov.

Sincerely,

Joseph Behnke
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Johanna Meade

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Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days, as the statute requires.

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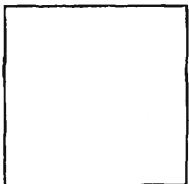
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